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June 17, 2003

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Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: MB Docket No. 03-15
Second Periodic Review of the Commission's Rules and Policies
Affecting the Conversion To Digital Television
EX PARTE PRESENTATION

Dear Ms. Dortch:

Block Communications, Inc. ("Block") hereby submits this *ex parte* presentation in response to the Commission's *Notice of Proposed Rule Making* in the above captioned-proceeding.¹ As described in its Comments in this proceeding, Block opposes the Commission's proposal to establish "use-it-or-lose-it" replication/maximization deadlines for DTV stations.² Instead, because most broadcasters operating DTV stations at less than their full authorized facilities already are reaching a large majority of their service areas pursuant to special temporary authority, Block believes that the Commission should defer consideration of a replication/maximization deadline until the next Biennial Review.³

Block currently operates two stations, WFTE-DT, Salem, Indiana, and WDRB-DT, Louisville, Kentucky, pursuant to grants of special temporary authority at lower power than that authorized by their construction permits.⁴ As demonstrated by the attached engineering exhibit, WFTE-DT and WDRB-DT currently reach approximately 86% and 71% of the population within the respective Grade B contours of the stations' analog facilities.⁵ This substantial

¹ Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 03-15, *Notice of Proposed Rule Making*, FCC 03-8 (rel. Jan. 27, 2003) ("*Notice*"). The reply comment date was extended to May 21, 2003. See *Order* in MB Docket No. 03-15, DA 03-872 (rel. Mar. 26, 2003).

² See *id.* at ¶ 33. The Commission has proposed a July 1, 2005 deadline for four top-four network affiliated stations in the top 100 markets and a July 1, 2006 deadline for all other commercial DTV licensees. See also Block Comments at 6-7.

³ See Block Comments at 7.

⁴ See BEDSTA 20030414ACL (WFTE-DT); BMDSTA 20021224ADF (WDRB-DT).

⁵ See Attachment.

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coverage of a station's NTSC service area is typical for digital stations operating pursuant to STAs. For example, in Comments submitted in this proceeding, Cordillera Communications, Inc. ("Cordillera") provided evidence that its station KPAX-DT, Missoula, Montana, reaches over 90% of its NTSC service population. Given the current progress of the DTV transition and the pace of consumer adoption of DTV reception technology, this substantial coverage enables these stations to reach the vast majority of their viewers that possess DTV reception capability.

Given the likelihood that the transition will extend beyond the current December 31, 2006 deadline, the minimal benefit that would be gained by requiring full-power operation prior to that date is outweighed by the considerable expense that upgrading current low-power operations would place on broadcasters that already have borne a disproportionate financial burden in furthering the DTV transition. Cordillera, for example, has estimated that it would cost an additional \$700,000 to upgrade its current low-power facilities to reach the additional 9% of its service population. Block estimates that the total cost of upgrading WDRB-DT and WFTE-DT would be, at a minimum, *between \$3 million and \$3.5 million*.⁶ Requiring these massive expenditures for such minor service upgrades would be unreasonable under current conditions.

Deferring the replication/maximization deadline would give broadcasters time to devote their resources to experimenting with innovative digital services and new methods of signal delivery, and would give the Commission time to establish rules – such as those governing the transition to digital of LPTV and translator stations and those governing distributed transmission technologies – that will be essential to many stations' commencement of full-service operations. Without certainty regarding how DTV stations will be able to utilize fill-in technologies like low-power translators and distributed transmission facilities, broadcasters cannot even begin planning for how they will establish full-power service. The Commission should not impose a deadline on broadcasters that, under the current regulatory regime, cannot be met. The lingering uncertainty in these technical areas only serves to demonstrate further that establishing a replication/maximization deadline would be premature.

Several parties have suggested that the Commission decide in this Biennial Review to establish a replication/maximization deadline that coincides with the end of the DTV transition.⁷ Block does not necessarily object to this approach, but believes that deferring the issue to the next Biennial Review may be the sounder course because it would preserve the Commission's ability to require replication/maximization prior to the end of the transition if it appears two years from now that doing so would accelerate the DTV transition. In any case, however, establishing a replication/maximization deadline now plainly will serve no purpose but to place another financial burden on broadcasters that already have engaged in a resource-draining DTV build-out that promises no near-term financial return.

⁶ Cordillera Comments at 6.

⁷ See, e.g., NAB/MSTV Comments.

The Commission should resist the temptation of setting a replication/maximization deadline just for the sake of providing the appearance that the transition is moving forward. As the Commission has recognized on many occasions, service is the key to the DTV transition. As the submissions of Block and Cordillera show, that service is, in large part, being provided. Before the Commission imposes a replication/maximization deadline on broadcasters, it should be certain that broadcasters have had time to explore the best ways to provide full-power digital services to their communities and it should be sure that it has provided approval for the tools needed to provide those services.

Respectfully submitted,

By: 

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Attachments



